

Application Serial Number 10/055,388
Response to Office Action
Dated June 3, 2008

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REMARKS / DISCUSSION OF ISSUES

Claims 3-9 and 11-21 are pending in the application. Claims are not amended at present, thus a listing of claims is not provided.

Allowable Subject Matter

Applicants gratefully acknowledge the indication of allowability of the subject matter of claims 22 and 23. While the subject matter of claims 22 and 23 is not placed in independent claim form at present, Applicants take this under advisement.

Rejections under 35 U.S.C. § 103

Claims 3, 11, 12 and 16-19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Vishakhadatta, et al.*

Claims 20-21 were rejected under rejected under 35 U.S.C. § 103(a) as being unpatentable over *Vishakhadatta, et al.* (US PAP 2002/0141511), *Maligeorgos, et al.* (US PAP 2002/0039039) and *Franca-Neto* (US Patent 6,509,799).

Claims 4 and 13 were rejected as being unpatentable over *Vishakhadatta, et al.* (US PAP 2002/0141511), *Maligeorgos, et al.* (US PAP 2002/0039039) and *Sano, et al.* (US Patent 5,546,048).

Claims 5, 7 and 14 were rejected under rejected under 35 U.S.C. § 103(a) as being unpatentable over *Vishakhadatta, et al.* (US PAP 2002/0141511) and *Franca-Neto* (US Patent 6,509,799).

Claim 8 is rejected were rejected under rejected under 35 U.S.C. § 103(a) as being unpatentable over *Vishakhadatta, et al.* (US PAP 2002/0141511), *Franca-Neto* (US Patent 6,509,799) and *Saigo, et al.* (JP 57073974).

At the outset, Applicants note that the rejection of claims 3, 11, 12 and 16-19 is based on a provisional patent application (60/261,506) that is related to US PAP 2002/0141511. Because the provisional patent application was not within the public domain, it cannot serve as the basis for a rejection under this section of the Code. While

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PAP 2002/0141511 was published, the contents of the related provisional application, which was applied, may be different. Thus, this rejection is traversed for at least this reason.

Claims 3, 8 and 12 are the independent claims.

Claims 3, 8 and 12 are all rejected based on *Vishakhadatta, et al.* The Examiner concurs that this reference fails to disclose 'the low noise amplifier is a quadrature low noise amplifier.' In an effort to cure this deficiency, the Examiner states:

"However, it is well known and notoriously old in the art to have the complex LNA of Vishakhadatta, et al. be split into two LNAs since a complex LNA defines an in phase LNA and a quadrature LNA integrated into one LNA."

Applicants respectfully submit that without basis in extrinsic evidence, the assertion of that which is allegedly well-known is improper. To wit, a claim rejection must be based on objective evidence of record, and cannot be supported merely on subjective belief and unknown authority. See, e.g., M.P.E.P. § 2144.03; In re Lee, 277 F.3d at 1344-45, 61 USPQ2d at 1434-35 (Fed. Cir. 2002); In re Zerko, 258 F.3d at 1386, 59 USPQ2d at 1697.

No such concrete evidence has been provided by the Examiner here, nor did the Examiner submit an affidavit as required by 37 C.F.R. § 1.104(d)(2) if this proposed motive were based on facts within his personal knowledge (see M.P.E.P. § 2144.03). Applicants respectfully request that such an affidavit be provided if a rejection continues to be made without a citation of any objective evidence.

Therefore, Applicants submit that the rejections of claims 3, 8 and 12 are improper and should be withdrawn. As such, because a *prima facie* rejection has not been provided, claims 3, 8 and 12 are patentable over the applied art. In addition, all claims that depend from claims 3, 8 and 12 are also patentable for at least the same reasons.

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Conclusion

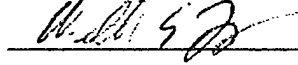
In view the foregoing, applicant(s) respectfully request(s) that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application in condition for allowance.

If necessary, the Commissioner is hereby authorized in this, concurrent, and further replies to charge payment or credit any overpayment to Deposit Account Number 50-0238 for any additional fees, including, but not limited to, the fees under 37 C.F.R. §1.16 or under 37 C.F.R. §1.17.

If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted on behalf of:

NXP Incorporated



by: William S. Francos (Reg. No. 38,456)

Date: October 3, 2008

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